

PATENT
512425-2093

REMARKS

Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-14 are still pending in this application. Claim 1, 2, 5 and 10-14 have been amended to address the Examiner's claim objections and second paragraph rejections. Applicants reserve the right to pursue the subject matter of cancelled claims in continuing applications. No new matter has been added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. THE CLAIM OBJECTIONS ARE OVERCOME

Claim 1-14 were objected to on several grounds which are explained in greater detail below:

- (1) The definition of e has been clarified that it can refer to being 0 or ≥ 1 depending on the value of R^1 . The definition of R^1 has been clarified such that the variable R^1 is no longer necessary.
- (2) The Examiner was correct that the term "dispersing" was intended. This is evident throughout the specification, e.g. in the "Field of the Invention" on page 1, line 10 of the specification.
- (3) Claims 10 and 11 have been amended to correct typographical errors ("spinel" is supported on page 16, line 28 of the specification).

Reconsideration and withdrawal of the objections are requested.

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III. THE CLAIM REJECTION UNDER

35 U.S.C. 112, 2ND PARAGRAPH HAS BEEN OVERCOME

Claim 12 was rejected for lacking antecedent basis for the incorporation of an auxiliary/additive. It is believed that the amendment to claim 12 obviates this rejection and that the rejection can properly be withdrawn.

IV. THE CLAIM REJECTION UNDER

35 U.S.C. 102(b) AND 35 U.S.C. 103(a) HAVE BEEN OVERCOME

Claims 1, 2, 5, 9, 10, 13 and 14 were rejected as allegedly anticipated by Burow et al. (U.S. Patent 5,035,748). The applicants do not concede that the claims were anticipated by Burow et al. as it is believed that each and every element of the claim was described in such detail so as to give possession of the invention to one of ordinary skill in the art. see MPEP 2131. However, the applicants point out that the basis for the Examiner's anticipation rejection no longer applies, i.e. the compounds of the formula no longer have R¹ being exclusively as - CH₂CHR*Ph.

Claims 4, 6, 11 and 12 as allegedly being obvious over Burow et al., *ibid*. The applicants do not concede that the claims were rendered obvious by Burow et al. as there is no direction or guidance for supply the missing elements of the respective claims rejection, i.e. the motivation only comes from personal opinion and case law and not from proffered evidence. However, as noted above, the basis for the Examiner's anticipation rejection no longer applies and as such this difference is unaccounted for in the current rejection, i.e. all claim limitations are not taught by the prior art as is required to establish a *prima facie* case of obviousness.

Accordingly, it is submitted that when one considers all of the teachings in the art, one does not find the claimed invention to be anticipated or the motivation to combine the cited references. Reconsideration and withdrawal of the Section 103 rejections are requested.

REQUEST FOR INTERVIEW

In the interest of adhering to the tenets of compact prosecution and obtaining good customer service (see page 7 of the FY-2004 Performance and Accountability Report), the applicants request that the teachings of MPEP 707.07(j), sections II and III be applied, especially with regard to the offer of suggestion for correction by the Examiner if the rejections are upheld.

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In accordance with MPEP 713.01, section III, should any issue remain as an impediment to allowance, an interview with the Examiner and SPE are respectfully requested; and, the Examiner is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview ("An interview should normally be arranged for in advance, as by letter, facsimile, electronic mail, telegram or telephone call, in order to insure that the primary examiner and/or the examiner in charge of the application will be present in the office." *Id.*).

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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